

PROPERTY TAX APPEAL BOARD'S DECISION

APPELLANT: James A. Moehling
DOCKET NO.: 04-01286.001-R-2 through 04-01286.004-R-2
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are James A. Moehling, the appellant, by attorney Sandra Kerrick of Caldwell, Berner & Caldwell of Woodstock and the McHenry County Board of Review.

The subject property consists of four adjoining parcels, a total of 33.54 acres of land, with an improvement of a two-story frame dwelling on one of the parcels. The dwelling is approximately 13 years old and contains 5,591 square feet of living area. The dwelling has a full finished walkout basement of 5,100 square feet of building area, three full baths, central air conditioning, one fireplace, and a four-car detached garage of 1,270 square feet of building area. The subject also features an indoor, in-ground pool with a two-story ceiling which is accessed from the walkout basement. In addition, the property features a large outbuilding (barn), a paddock, a deck, a screened porch and an open front porch. The property is located in Woodstock, Dorr Township, Illinois.

The appellant, through counsel, appeared before the Property Tax Appeal Board arguing that the fair market value of the subject was not accurately reflected in its assessed value. Namely, appellant's counsel contends this one 33.54 acre lot was "artificially and wrongly" made into four tax parcels by the assessor; appellant's documentation further asserts the subject property has already been improved and that no other dwellings can be built on the remaining three parcels "without subdivision

(Continued on Next Page)

Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds a reduction in the assessment of the property as established by the McHenry County Board of Review is warranted as set forth below. The correct assessed valuation of the property is:

Docket No.	Parcel No.	Land	Impr.	Total
04-01286.001-R-2	13-02-200-019	83,880	0	83,880
04-01286.002-R-2	13-02-200-015	36,551	0	36,551
04-01286.003-R-2	13-02-200-024	93,677	274,227	367,904
04-01286.004-R-2	13-02-200-023	38,660	0	38,660*

*Reduction per Dorr Township Assessor request at hearing.

Subject only to the State multiplier as applicable.

PTAB/cck/9-18

and other municipal approvals." In support of these arguments, a recent summary appraisal prepared for real estate financing purposes was presented by the appellant. No witnesses were called by the appellant at the hearing; the appraiser was not present to provide testimony or to be cross-examined regarding the methodology or final value conclusion in the appraisal.

Appellant's counsel, in terms of legal argument, contended that the four parcels comprising the subject land have been valued as if each parcel were a homesite (a buildable lot) with an improved road for access which they are not. Counsel asserted that appellant purchased one lot which, without notice or other proceeding, was purportedly "subdivided" into the four existing parcel identification numbers. No evidence on this point was presented. Counsel also contended without supporting evidence or testimony that, as a property within the Village of Bull Valley, the property was currently zoned for only one house and rezoning for the addition of new dwellings would be difficult, if not impossible. In summary, counsel was arguing that the subject's land assessment should take into consideration that much of the land surrounding the dwelling is in essence "excess land" and therefore should receive some lesser assessment. Finally, counsel for appellant attempted to make a uniformity argument; she noted 2006 assessments of nearby lots, even lots in another township, were assessed at much less per acre than the subject's per acre assessment. The underlying Residential Appeal petition, however, indicated the appeal was based solely on a recent appraisal.

In the appraisal filed with the appeal by the appellant, the appraiser used two of the three traditional approaches to value in concluding an estimated market value of \$1,000,000 for a 5 acre parcel and the improvements as of August 25, 2004.

Under the cost approach, the appraiser estimated the subject's land value as \$175,000. The appraisal report states that vacant land sales were analyzed to determine site values. The appraiser determined a reproduction cost new for the subject dwelling of \$642,965, for the subject basement of \$178,500, and for the garage of \$38,100, for a total estimated cost new of \$859,565. Physical depreciation based on the age/life method was provided of \$61,400 resulting in a depreciated value of improvements of \$798,165. No functional or external obsolescence was noted according to the appraisal report. An "as-is" value of site improvements of \$45,000 was provided. The appraiser then added the land value to the depreciated improvement value and the "as-is" value of site improvements resulting in a total value by the cost approach of \$1,018,200.

Under the sales comparison approach, the appraiser used sales of three comparable homes located between 1.20 and 3.89 miles from

the subject. The comparables consist of land parcels ranging in size from 3.8 to 13.50 acres which have been improved with two-story, frame or brick and frame exterior constructed dwellings which ranged in age from 9 to approximately 13 years old. All of the comparables had full finished basements, central air conditioning, and either three-car or four-car garages. The properties featured from three to five fireplaces and each included an in-ground pool with fencing and a deck. In addition, two of the properties included a patio and a screened porch. One property also included outbuildings. The comparable dwellings ranged in size from 3,200 to 5,473 square feet of living area. The comparables sold between May 2004 and July 2004 for prices ranging from \$855,000 to \$1,150,000 or from \$190.20 to \$267.20 per square foot of living area including land. In comparing the comparable properties to the subject, the appraiser made adjustments for land area, lack of wooded area, presence of brick elevation, bath count, gross living area, garage stalls, exterior amenities, fireplace count, interior versus exterior pools, and outbuildings. Proximity to the subject was explained as necessary to obtain similar quality sales and sales with pools. "The subject's actual parcel size is over 5 acres, although the bank requires comparison of 5 acres or less." No further explanation was provided in the appraisal as to what methodology the appraiser utilized to support his adjustments. The report sets forth adjusted sales prices for the comparables ranging from \$956,600 to \$1,022,300 or from \$186.79 to \$298.94 per square foot of living area including land. From this process, the appraiser estimated a value for the subject based on the sales comparison approach of \$1,000,000 or \$178.86 per square foot of living area including a 5.0 acre parcel of land.

The appraisal did not address the value of the remaining 28.54 acres of land which is also the subject of the instant appeal. Based on this evidence, the appellant requested a reduction in the subject's total assessment to \$333,333 to approximately reflect a market value of the dwelling and the entire 33.54 acres of land of \$1,000,000.

The Board of review presented four sets of "Board of Review Notes on Appeal" with regard to each of the parcels at issue wherein the subject's final total assessment of \$543,677 was disclosed. The final assessment of the subject property consisting of all four parcels and the improvement reflects an estimated market value of \$1,632,664 or \$292.02 per square foot of living area including land using the 2004 three-year median level of assessments for McHenry County of 33.30% as developed by the Illinois Department of Revenue. In support of the subject's assessment, the board of review submitted a letter from the Dorr Township Assessor, a limited scope appraisal of the subject property, and a spreadsheet of recent sales of vacant land near the subject property.

In the letter and in testimony, Dorr Township Assessor Kelli A. Myers indicated that the assessor's office was not responsible for creating four parcel numbers for the subject land. In fact, the assessor testified that her office provided appellant with a combination form to be submitted to the McHenry County mapping division in order to have the parcels combined into one parcel identification number. As of the date of hearing, the assessor testified that nothing has been received by the assessor for such combining from the mapping division, however, the assessor's office has continued to view the four parcels as one parcel number. The assessor also testified that if the parcels were viewed separately, the land assessment would be higher; typically, as the acreage increases, there is a lower assessment per acre.

Furthermore, in testimony and for purposes of uniformity in assessment, the township assessor made a request to reduce the assessed value of parcel number 13-02-200-023 from \$55,342 to \$38,660.

In addition, the assessor noted that regardless of the division of the parcels, for board of review appeals in 1993, 1997 and 2004 which were filed by the appellant, each appeal included an appraisal of 5 acres of land and the improvement with an estimated fair market value of \$1,000,000 in each appraisal.

Turning to the appraisal evidence submitted by the board of review, the appraiser who prepared the report was not present at the hearing to provide testimony or to be cross-examined regarding the methodology or final value conclusion and the report notes that an inspection of the subject was not done for purposes of the appraisal. The appraiser used two of the three traditional approaches to value in concluding the estimated market value of \$2,000,000 as of December 2004 relying upon a sales comparison approach estimate of value of \$1,400,000 for the improvement on 11 acres in addition to two additional site estimates of \$600,000.

Under the cost approach, the appraiser estimated the subject's land value as \$425,000. The appraiser determined a reproduction cost new for the subject dwelling with basement, barn, deck, porches and pool of \$978,425 and for the garage of \$38,100, for a total estimated cost new of \$1,016,525. Physical depreciation of \$100,000 was provided resulting in a depreciated value of improvements of \$916,525. An "as-is" value of site improvements of \$50,000 was provided. The appraiser then added the land value to the depreciated improvement value and the "as-is" value of site improvements resulting in a total value by the cost approach of \$1,391,525.

Under the sales comparison approach, the appraiser used sales of four comparable homes located within a mile of the subject. The comparables consist of land parcels ranging in size from 11 to 50 acres which have been improved with either a two-story, a "farmhouse", or a "contemp"¹ frame exterior constructed dwelling which ranged in age from 9 to 160 years old.² Two of the comparables had full finished basements, one had a partially finished walkout basement, and one had a partial partially-finished basement. Each of the properties featured central air conditioning, and either a three-car or four-car garage. The properties included three or four fireplaces each; one property featured an indoor pool and two properties had a pool (with no indication as to indoor or outdoor). Two of the properties included barns as outbuildings. Each property also included a patio, a deck, a balcony, and/or a porch or screened porch. The comparable dwellings ranged in size from 3,958 to 6,800 square feet of living area. The comparables sold between May 2003 and December 2004 for prices ranging from \$1,150,000 to \$1,600,000 or from \$235.29 to \$334.77 per square foot of living area including land.

In comparing the comparable properties to the subject, the appraiser made adjustments for date of sale in one instance, land area, lack of wooded area, presence of brick elevation, age in one instance, bath count, gross living area, garage stalls, exterior amenities, fireplace count, interior versus exterior pools, and outbuildings. Comparable sales from the market area were selected and sales over \$1,000,000 were utilized "as the subject property original cost exceeded that amount." No further explanation was provided in the appraisal as to what methodology the appraiser utilized to support the adjustments or why date of sale and age were adjusted in comparable sale number 4, but not adjusted in the other comparable sales presented where the differences were similar in nature.³ The appraiser's analysis resulted in adjusted sales prices for the comparables ranging from \$1,292,500 to \$1,695,000 or from \$249.26 to \$362.30 per square foot of living area including land.

In the spreadsheet presented by the board of review, sales of vacant lots occurring between June 2003 and July 2004 ranged in sale price from \$185,000 to \$375,000 for lots ranging from 5.16 to 30.5 acres or prices ranging from \$12,295 to \$36,101 per acre of land.

¹ The subject property, previously described as a two-story, was described in this appraisal as "contemp" also.

² The 160 year old "farmhouse" was noted as "modernized" such that no adjustment for age was made in comparison to the subject property.

³ Comparable number 4 date of sale of September 2003 was adjusted, but comparable number 3 date of sale of May 2003 was not adjusted. Likewise, comparable number 4's age of 20 years was adjusted, but comparable number 3's age of 35 years was not adjusted (said to be "equal").

Based on its evidence, the board of review requested confirmation of the subject's assessment.

After hearing the testimony and reviewing the record, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal. Other than the specific reduction request made by the township assessor, the Board finds that no reduction in the assessment of the subject property is supported by the evidence contained in the record. The subject property had a total assessment reflecting an estimated market value of \$1,632,664 or \$292.02 per square foot of living area including land using the 2004 three-year median level of assessments for McHenry County of 33.30%. The appellant's appraiser estimated a market value of \$1,000,000 with 5 acres of land as of August 25, 2004. The board of review's appraiser estimated a market value of \$2,000,000 or \$357.72 per square foot of living area including land as of December 2004.

As to the presentation of appellant's case-in-chief, it must be noted that no witnesses were called for testimony. Instead, appellant's counsel made what she deemed to be "a presentation of the facts that the Board should consider." (Transcript, p. 5) Pursuant to the Official Rules of the Property Tax Appeal Board, "[a]n attorney shall avoid appearing before the Board on behalf of his or her client in the capacity of both an advocate and a witness. . . . Except when essential to the ends of justice, an attorney shall avoid testifying before the Board on behalf of a client." (86 Ill. Admin. Code, Sec. 1910.70(f)) Thus, nothing counsel related in the instant hearing has been deemed to be testimony nor can "facts" be drawn from the statements of counsel; counsel merely presented argument.

Moreover, the instant appeal filed indicated the only basis for the appeal was "recent appraisal." (Residential Appeal filed May 13, 2005) No contention of law was cited and no supporting brief was filed. (86 Ill. Admin. Code, Secs. 1910.30(h) and 1910.65(d)) As such, the only relevant evidence for complainant's case-in-chief is contained within the appraisal submitted by the appellant, however, the appraiser was not present to answer questions as to why only a portion of the subject property's land was appraised rather than the entire tract at issue.

To determine the market value of the real estate which is the subject matter of this appeal, the Property Tax Appeal Board examined the appraisals in the record. Each appraiser in valuing the subject property used two of the three approaches to value. Both appraisers placed primary weight on the sales comparison approach. The courts have stated that where there is credible evidence of comparable sales these sales are to be given

significant weight as evidence of market value. In Chrysler Corp. v. Property Tax Appeal Board, 69 Ill. App. 3d 207 (1979), the court held that significant reliance should not be placed on the cost approach especially when there is market data available. In Willow Hill Grain, Inc. v. Property Tax Appeal Board, 187 Ill. App. 3d 9, the court held that of the three primary methods of evaluating property for purposes of real estate taxes, the preferred method is the sales comparison approach.

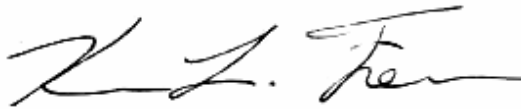
When analyzing comparable sales, it is important to determine the comparability of the sale properties to the subject and the reliability of the data derived there from. It is in this light that the appraisal evidence must be considered. The market information presented by the appraisers revealed a wide range of values. A total of seven sales of properties were submitted into the record. These properties had unadjusted sales prices ranging from \$190.20 to \$334.77 per square foot of living area. The appellant's appraiser estimated the market value of the subject property with a 5 acre site, whereas in reality the subject consists of 33.54 acres; the board of review's appraiser estimated the market value of the subject with a 17 acre site, much more similar to the subject's actual size. Moreover, the comparable properties chosen by the board of review's appraiser were more similar to the 17 acre site size than the comparables chosen by the appellant's appraiser. Furthermore, the board of review's appraiser made an additional upward adjustment based on comparable sales of land to account for the actual size of the subject property. No such adjustment was made in the appellant's appraiser's report.

Of the two appraisal reports, the Board finds the appraisal submitted by the board of review is the better of the two reports in terms of analysis and rationale as set forth in the documents. Although the board of review's appraisal report has an estimate of value greater than the estimated market value of the subject property based upon its 2004 assessment, the board of review specifically declined to seek an increase in the subject property's assessed value. As such, the Property Tax Appeal Board finds that the evidence does not support any change in the assessed value of the subject property other than the specific request of the township assessor made at hearing for a reduction in assessed value with regard to one of the parcels.

This is a final administrative decision of the Property Tax Appeal Board are subject to review in the Circuit Court or Appellate Court under the provisions of the Administrative Review Law (735 ILCS 5/3-101 et seq.) and section 16-195 of the Property Tax Code.



Chairman



Member



Member



Member



Member

DISSENTING: _____

C E R T I F I C A T I O N

As Clerk of the Illinois Property Tax Appeal Board and the keeper of the Records thereof, I do hereby certify that the foregoing is a true, full and complete Final Administrative Decision of the Illinois Property Tax Appeal Board issued this date in the above entitled appeal, now of record in this said office.

Date: September 28, 2007



Clerk of the Property Tax Appeal Board

IMPORTANT NOTICE

Section 16-185 of the Property Tax Code provides in part:

"If the Property Tax Appeal Board renders a decision lowering the assessment of a particular parcel after the deadline for filing

complaints with the Board of Review or after adjournment of the session of the Board of Review at which assessments for the subsequent year are being considered, the taxpayer may, within 30 days after the date of written notice of the Property Tax Appeal Board's decision, appeal the assessment for the subsequent year directly to the Property Tax Appeal Board."

In order to comply with the above provision, YOU MUST FILE A PETITION AND EVIDENCE WITH THE PROPERTY TAX APPEAL BOARD WITHIN 30 DAYS OF THE DATE OF THE ENCLOSED DECISION IN ORDER TO APPEAL THE ASSESSMENT OF THE PROPERTY FOR THE SUBSEQUENT YEAR.

Based upon the issuance of a lowered assessment by the Property Tax Appeal Board, the refund of paid property taxes is the responsibility of your County Treasurer. Please contact that office with any questions you may have regarding the refund of paid property taxes.